

A. G. Contract No KR98-1208TRN
ADOT-ECS File No.: JPA 98-82
Project: Pima Road
Double Tree Ranch Road to
South Reservation Boundary
TRACS No.: H0829 01R
R/W Parcel 7-6611-B

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY

THIS AGREEMENT is entered into 9 September, 1998, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY, acting by and through its TRIBAL COUNCIL (the "SRPMIC")

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State

2. The SRPMIC is empowered to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the SRPMIC

3. In the "Grant of Easement for Right of Way", for the Pima Freeway crossing the SRPMIC property, the State agreed, as specified in Exhibit B-13 of said Grant, attached hereto by reference, to pay SRPMIC the sum of \$3,300,000.00 to restrict mining in a parcel approximately 90 acres in size, to the east and west of the Pima Freeway Bridge over the Salt River, as described in Exhibit "A" and "B", attached hereto and made a part hereof. The purpose of this agreement is to transfer said funds to the SRPMIC for restricting the ability to mine materials below the elevations within the 90 acres, as indicated in Exhibit "C", attached hereto and made a part hereof

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 22650
Filed with the Secretary of State
Date Filed: 9/8/98
Robert Gayles
Secretary of State
By Vicky D. Greenwald

II. SCOPE OF WORK

1. The State will:

a. Upon execution of this agreement and within 30 days from the receipt of an invoice from SRPMIC, remit \$3,300,000.00 to the SRPMIC for restricting the ability to mine materials.

b. Provide to SRPMIC the channel flow line elevation under the Pima Freeway Bridge in feet above mean sea level, in accordance with Exhibit "C".

c. Provide to SRPMIC the depth of maximum excavation downstream and upstream to prevent damage to said bridge in feet above mean sea level, in accordance with Exhibit "C".

2. SRPMIC will:

a. Upon execution of this agreement, invoice the State \$3,300,000.00 for restricting the ability to mine materials.

b. Not allow excavation below said elevations, as described in Exhibit "C" herein, to insure the safety of said bridge.

III. MISCELLANEOUS PROVISIONS

1. This agreement shall remain in force and effect as long as the Northeast Outer Loop bridge is standing and being used by the traveling public or until this agreement is superseded by a future agreement between the parties, or until such time as this agreement is terminated by mutual agreement between the parties.

2. This agreement shall become effective upon filing with the Secretary of State.

3. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

5. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

6. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Mail Drop 616E
Phoenix, AZ 85007

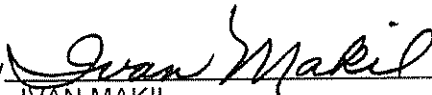
Salt River Pima-Maricopa Indian Community
Engineering Department
10005 E. Osborn Road
Scottsdale, AZ 85256

7. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under applicable laws to enter into this agreement and that the agreement is in proper form

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written

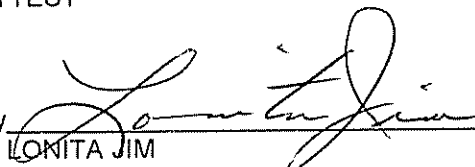
**SALT RIVER PIMA-MARICOPA
INDIAN COMMUNITY**

**STATE OF ARIZONA
Department of Transportation**

By 
IVAN MAKIL
President

By 
VICTOR M. MENDEZ, P.E.
Deputy State Engineer

ATTEST

By 
LONITA JIM
Secretary

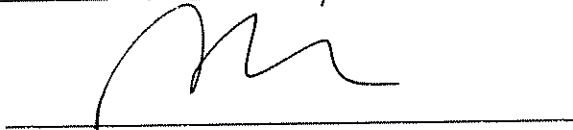
JPA 98-82

APPROVAL OF

THE SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION and the SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY, and declare this agreement to be in proper form and within the powers and authority granted to the Community under the laws of the Community

DATED this 25 day of July, 1998.

A handwritten signature in black ink, consisting of a large, stylized 'M' followed by a horizontal line and a small flourish.

General Counsel

**SALT RIVER PIMA-MARICOPA
INDIAN COMMUNITY**
10,005 East Osborn Road
Scottsdale, Arizona 85256

RESOLUTION NUMBER: SR-1837-98

- WHEREAS,** the State of Arizona ("State"), as part of the Pima Freeway, has constructed a bridge over the Salt River within the Community and it is necessary to protect said bridge from adverse effects caused by excessive mining, and
- WHEREAS,** in its consent to the "Grant of Easement for Right of Way" for the Pima Freeway, the Community agreed to restrict mining in a parcel approximately 90 acres in size, adjacent to the bridge over the Salt River, and
- WHEREAS,** as a condition to the "Grant of Easement for Right of Way" for the Pima Freeway, the State agreed to pay the Community the sum of \$3.3 million dollars to restrict mining in a 90 acre parcel adjacent to the bridge over the Salt River, and
- WHEREAS,** the Salt River Pima-Maricopa Indian Community Council has reviewed the proposed Intergovernmental Agreement between the State of Arizona and the Salt River Pima-Maricopa Indian Community providing for the restriction of mining in the Salt River and approves of the terms and conditions contained therein

NOW THEREFORE BE IT RESOLVED by the Salt River Pima-Maricopa Indian Community Council that it authorizes the President or Vice President to execute the Intergovernmental Agreement for and in behalf of the Community, and to take all steps reasonably necessary to, and in aid of, carrying out the purpose and intent of this Resolution

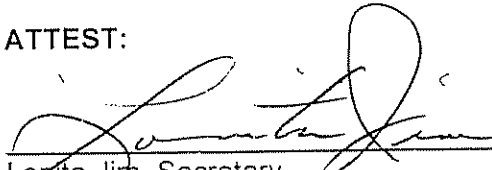
C_E_R_T_I_F_I_C_A_T_I_O_N

Pursuant to the authority contained in Article VII, Section 1(h) of the Constitution of the Salt River Pima-Maricopa Indian Community, ratified by the Tribe, February 28, 1990, and approved by the Secretary of the Interior, March 19, 1990, the foregoing resolution was adopted this 12th day of August, 1998, at a duly called meeting held by the Community Council in Salt River, Arizona at which a quorum of 5 members were present by a vote of 5 for, 0 against, 4 excused

**SALT RIVER PIMA-MARICOPA
INDIAN COMMUNITY COUNCIL**


Ivan Makil, President

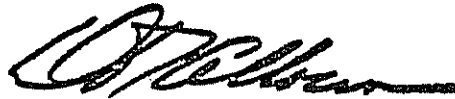
ATTEST:


Lonita Jim, Secretary

RESOLUTION

BE IT RESOLVED on this 17th day of June 1998, that I, the undersigned MARY E. PETERS, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with the Salt River Pima Maricopa Indian Community, for the purpose of defining responsibilities for their respective roles to restrict mining in a 90 acre parcel east and west of the Pima Freeway Bridge over the Salt River, in conjunction with the Pima Road project.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Deputy State Engineer for approval and execution.

A handwritten signature in black ink, appearing to read 'D. Allocco', is written over a horizontal line.

DAVID ALLOCCO, acting Manager
Engineering Technical Group

for MARY E. PETERS, Director

DESCRIPTION FOR RESTRICTIVE EXCAVATION COVENANT

PARCEL NO. 1

A parcel of land lying within the South half of the Southeast quarter (S½SE¼) of Section 12, Township 1 North, Range 4 East, and the Southwest quarter of the Southwest quarter (SW¼SW¼) of Section 7, Township 1 North, Range 5 East, Gila and Salt River Meridian, Maricopa County, Arizona, described as follows;

Commencing at the Southeast corner of said Section 12;

thence South 89° 58' 03" West 80.00 feet along the South line of said Section 12 to it's intersection with the existing West right of way line of the State Route 101 Loop (NORTHEAST OUTER LOOP HIGHWAY) and the TRUE POINT OF BEGINNING;

thence South 89° 58' 03" West 2609.65 feet continuing along said South line of Section 12 to the South quarter corner of said Section 12;

thence North 00° 25' 49" East 46.03 feet along the West line of the Southeast quarter (SE¼) of said Section 12 to its intersection with the existing South line of the 151.00 foot wide right of way easement to Arizona Public Service for power transmission lines;

thence North 79° 53' 44" East 1083.52 feet along said South right of way easement line;

thence North 70° 13' 37" East 1182.37 feet continuing along said South right of way easement line;

thence North 60° 01' 43" East 577.08 feet continuing along said South right of way easement line to its intersection with the existing West right of way line of said State Route 101 Loop;

thence South 33° 11' 44" East 78.69 feet along said existing West right of way line;

thence South 08° 31' 06" West 696.75 feet continuing along said existing West right of way line;

thence South 15° 54' 51" West 202.03 feet continuing along said existing West right of way line to the TRUE POINT OF BEGINNING.

24.0 acres, more or less.

(continued)

EXHIBIT "A"

PAGE 1

DESCRIPTION FOR RESTRICTIVE EXCAVATION COVENANT

PARCEL NO. 2

A parcel of land lying within the South half (S½) of Section 7, Township 1 North, Range 5 East, and the Southwest quarter of the Southwest quarter (SW¼SW¼) of Section 8, Township 1 North, Range 5 East, Gila and Salt River Meridian, Maricopa County, Arizona, described as follows;

Commencing at the Southwest corner of said Section 7;

thence South 89° 56' 44" East 935.00 feet along the South line of said Section 7 to its intersection with the existing East right of way line of the State Route 101 Loop (NORTHEAST OUTER LOOP HIGHWAY) and the TRUE POINT OF BEGINNING;

thence from a Local Tangent Bearing of North 58° 30' 22" West, along said existing East right of way line being a curve to the Right and having a radius of 716.20 feet, a distance of 693.93 feet;

thence North 09° 48' 02" East 310.72 feet continuing along said existing East right of way line;

thence North 02° 30' 26" West 413.04 feet continuing along said existing East right of way line to its intersection with the existing South line of the 151.00 foot wide right of way easement to Arizona Public Service for power transmission lines;

thence North 60° 01' 43" East 1192.87 feet along said South right of way easement line;

thence South 15° 54' 15" East 1760.30 feet;

thence South 89° 57' 27" East 2492.71 feet;

thence South 88° 40' 48" East 224.75 feet;

(continued)

EXHIBIT "A"

PAGE 2

PARCEL NO. 2

thence along a curve to the Left, having a radius of 500.00 feet, a distance of 160.79 feet;

thence North 72° 53' 40" East, 425.72 feet;

thence along a curve to the Right, having a radius of 391.20 feet, a distance of 15.54 feet;

thence from a Local Tangent Bearing of North 70° 37' 09" East along a curve to the Left, having a radius of 391.20, a distance of 106.11 feet;

thence from a Local Tangent Bearing of North 55° 09' 42" East, along a curve to the Right having a radius of 1088.94, a distance of 324.65 feet;

thence from a Local Tangent Bearing of North 72° 09' 37" East, along a curve to the Left, having a radius of 1584.86, a distance of 150.19 feet;

thence North 66° 43' 51" East 146.70 feet;

thence South 43° 59' 00" West 256.67 feet;

thence South 50° 05' 00" West 280.50 feet;

thence South 45° 49' 00" West 271.26 feet;

thence South 68° 04' 00" West 446.24 feet to a point on the South line of said Section 7;

thence North 89° 57' 27" West 2447.04 feet along said South line to the South quarter corner of said Section 7;

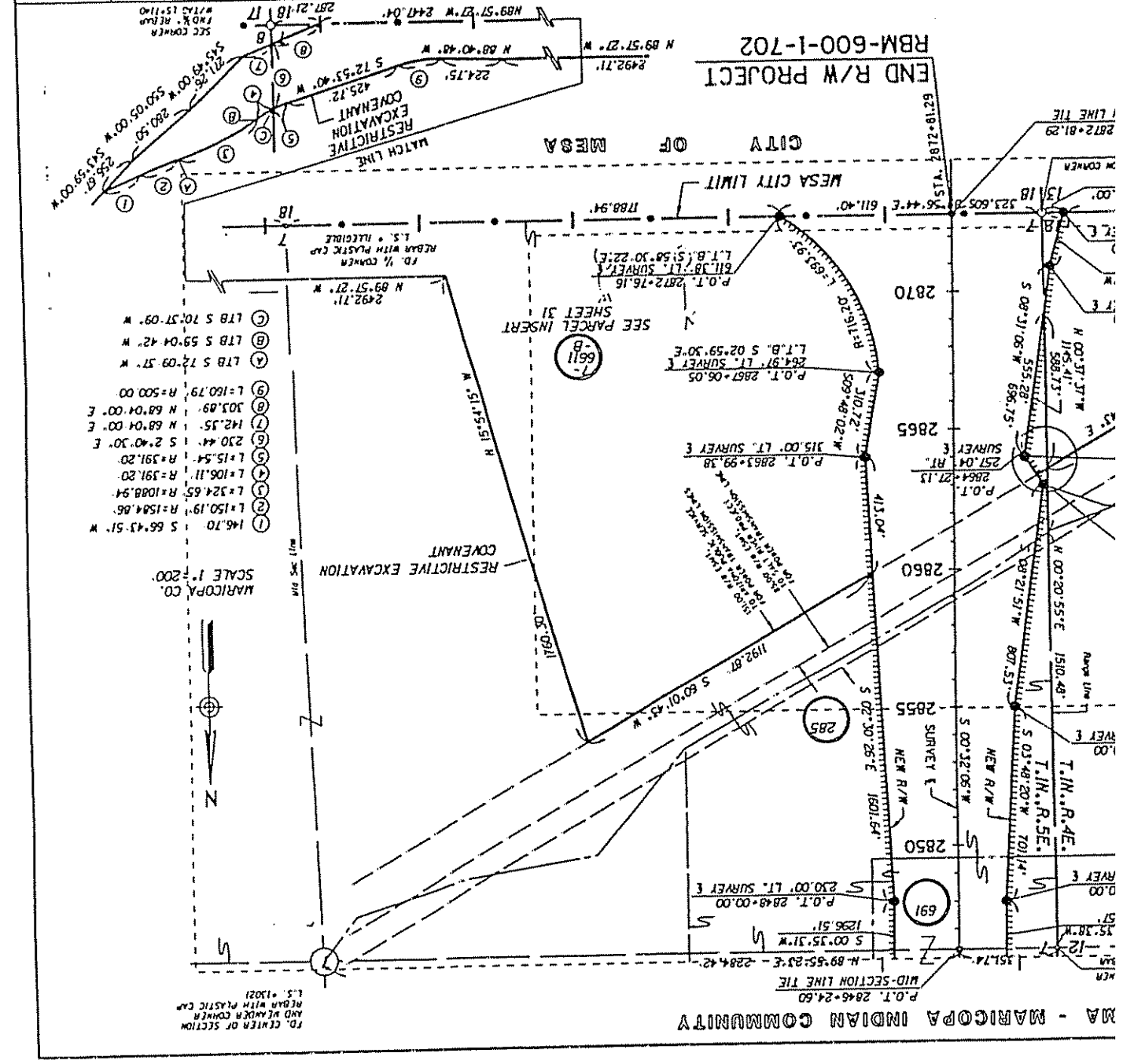
thence North 89° 56' 44" West 1788.94 feet along said South line to the existing East right of way line of said State Route 101 Loop and the TRUE POINT OF BEGINNING.

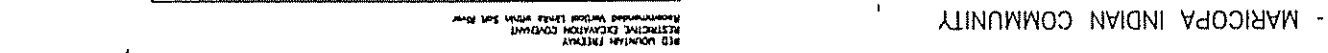
66.0 acres, more or less.

EXHIBIT "A"

PAGE 3

C.O. NO.	DATE	BY	DESCRIPTION
8878	9/29/94	JOC	REVISED MINING AREA ESM
8963	9/21/95	WTP	REV'D RESTRICTIVE EXCAV. COV.
9071	1/16/96	lim	REV'D REST. EXCAV. COV. SEC 7 & 8
REVISIONS			
DRAWING NO. D-1-1-823			
HARD COPY			
CHECKED/DATE: 11/15/90			
DRAWN/DATE: 11/15/90			
PROJECT NO. 600-1-702			
NORTH EAST OUTER LOOP			
ARIZONA DEPARTMENT OF TRANSPORTATION			
RIGHT OF WAY PLANS SERVICES			
PREVIOUSLY			
SEALD BY			
ROBERT K.			
6/26/90			
S. R. 1011			
DOUBLE TREE RANCH RD. - SOUTH RESV. BNDRY.			







STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX 85007-2926

GRANT WOODS
ATTORNEY GENERAL

TRN Main: (602) 542-1680
Direct: (602) 542-8837
Fax: (602) 542-3646
MAIN PHONE : 542-5025
TELECOPIER : 542-4085

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR98-1208TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATE August 26, 1998.

GRANT WOODS
Attorney General

JAMES R. REDPATH
Assistant Attorney General
Transportation Section